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Federal Communications Commission
Washington, D.C. 20554

October 24, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Wally Herger
Member, House of Representatives
55 Independence Circle, Suite 104
Chico, California 95926
Attn.: Lemoine Sharpe

Dear Congressman Herger:

This letter responds to your correspondence on behalf of Orrin Sedley regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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The Honorable Wally Herger
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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

WALLY HERGER

20 DISTRICT, CALIFORNIA

PLEASE REPLY TO:

☐ WASHINGTON OFFICE:
2433 RAYBURN HOUSE OFFICE BUILDING
(202) 225-3076

☒ DISTRICT OFFICE:
55 INDEPENDENCE CIRCLE
CHICO, CA 95926
(916) 893-6366

☐ 410 HEMSTED DRIVE, SUITE 115
REDDING, CA 96002
(916) 223-5898



Congress of the United States
House of Representatives
Washington, DC 20515-0502

September 26, 1994

CH
cc-800
cc-900
COMMITTEE ON
WAYS AND MEANS

COMMITTEE ON
THE BUDGET

4949

Federal Communications Commission
Office of Congressional and Public Affairs
Lou Sizemore, Congressional Correspondence
1919 M Street NW
Washington, D.C. 20554

Dear Lou:

I am writing in behalf of Orrin Sedley of 339 Rivella Vista, Redding, California, 96001 who has requested I inquire concerning the laws governing the usage of 800 telephone numbers. As I understand the matter, Mr. Sedley's son has utilized 800 numbers (which traditionally are looked upon as toll free) that reverted to 900 chargeable calls, thus causing inordinate billings to the family telephone.

Mr. Sedley's research into this matter through his telephone carrier has indicated this is a common practice caused by a loophole in the laws.

If you will, I would appreciate any information you can offer for my reply to Mr. Sedley. ~~My Staff Assistant, Louisa Singer, will be in your office.~~

Thank you for your assistance.

Sincerely,

Wally Herger
WALLY HERGER
Member of Congress

WH:11

WALLY HERGER
2D DISTRICT, CALIFORNIA

PLEASE REPLY TO:

☐ WASHINGTON OFFICE:
2433 RAYBURN HOUSE OFFICE BUILDING
(202) 225-3076

DISTRICT OFFICES:

☐ 55 INDEPENDENCE CIRCLE, SUITE 104
CHICO, CA 95926
(916) 893-8363

☐ 410 HEMSTED DRIVE, SUITE 115
REDDING, CA 96002
(916) 223-5898



COMMITTEE ON
WAYS AND MEANS

COMMITTEE ON
THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515-0502

PRIVACY ACT RELEASE

PLEASE TYPE OR PRINT

NAME ORRIN SEDLEY

ADDRESS 339 RIVELLA VISTA 244-2318
(street) (telephone number)

REDDING CA 96001
(city, state, and zip code)

AGENCY _____
(agency case number)

IMPORTANT: Please attach to this form a brief letter, typed or printed, outlining the problem and noting whatever steps you have taken in an attempt to resolve it. Please also attach copies, not originals, of any related documentation or letters from governmental agencies.

In accordance with Title 5, Section 552(a), of the United States Code (1974 Privacy Act), I hereby authorize Congressman Wally Herger to request assistance in my behalf in connection with my above named subject/problem with the above named government agency. For a period of one year I authorize discussion of my records with Congressman Herger and/or his designated representative.

DATE _____

SIGNATURE _____

SOCIAL SECURITY# _____

PLEASE RETURN TO:

The Honorable Wally Herger
410 Hemsted, Suite 115
Redding, California 96002
ATTN: 8-12-